IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

WEDNESDAY, THE 4TH APRIL 2007 / 14TH CHAITHRA 1929

WP(C).No. 3774 of 2007(Y)

PETITIONER:

K.P. MOHAMMEDKUTTY,
JUNIOR FOREMAN, GOVERNMENT PRESS, ERNAKULAM.

BY ADV. SRI.ELVIN PETER P.J.

RESPONDENTS:

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1. STATE OF KERALA,
REPRESENTED BY THE SECRETARY TO GOVERNMENT,
HIGHER EDUCATION DEPARTMENT,GOVERNMENT SECRETARIAT
THIRUVANANTHAPURAM.

2. THE DIRECTOR OF PRINTING,
GOVERNMENT CENTRAL PRESS, THIRUVANANTHAPURAM.

ADDL.3. K.N.SUKUMARAN, HEAD COMPUTER,
GOVERNMENT PRESS, MANNAMTHALA,
THIRUVANANTHAPURAM.

ADDL.4. GEORGE THOMAS, HEAD COMPUTER,
GOVRNMENT CENTRAL PRESS, THIRUVANANTHAPURAM.

(ADDL. R3 and R4 IMPLEADED VIDE ORDER DATED 27.3.07 ON I.A.NO.4703/07)

R1, R2 BY GOVT. PLEADER SRI.BIJOY CHANDRAN
R3, R4 BY ADV. SRI.GEORGE POONTHOTTAM

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 04/04/2007, ALONG WITH W.P.(C).7588 OF 2007 AND CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX IN WPC.3774/07

PETIITONER'S EXHIBITS:

EXT.P1: TRUE COPY OF THE ORDER DATED 6.1.2006 ISSUED BY THE 2ND RESPONDENT.

EXT.P2: TRUE COPY OF THE JUDGMENT DATED 4.11.2004 IN O.P.NO.16867/95 OF THE FULL BENCH OF THIS HON'BLE COURT.

EXT.P3: TRUE COPY OF ORDER DATED 4.3.2005 IN SLP NOS.3953 AND 3954 OF 2005 OF THE HON'BLE SUPREME COURT.

EXT.P4: TRUE COPY OF COMMUNICATION DATED 2.3.2005 ISSUED BY THE GOVERNMENT.

EXT.P5: TRUE COPY OF ORDER DATED 18.7.2005 ISSUED BY THE 2ND RESPONDENT ALONG WITH THE PRELIMINARY SENIORITY LIST AS ON 1.7.2005.

EXT.P6: TRUE COPY OF ORDER DATED 19.12.2005 IN W.P.(C).30132/05 OF THIS HON. COURT.

EXT.P7: TRUE COPY OF JUDGMENT DATED 23.1.2007 IN CIVIL APPEAL NO.323/07 ETC. OF THIS HON. COURT.

EXT.P8: TRUE COPY OF REPRESENTATION FILED BY THE petitioner BEFORE THE 2ND RESPONDENT.

/TRUE COPY/

THOTTATHIL B.RADHAKRISHNAN, J.

W.P(C).Nos.3774, 7588, 8209 &
10395 OF 2007

Dated this the 4th day of April, 2007

JUDGMENT

All these cases relate to the basic complaint that final seniority list has not been published following a preliminary seniority list of Non-Gazetted Technical Supervisory Employees of General Composing, Mechanical Composing, Foundry, Typestore, Reading, Machine, Binding, Wok shop and Computing Sections of the Printing Department as on 1.7.2005, published on 18.7.2005. These writ petitions are by rival claimants further asserting their rights under the provisional seniority list or asserting rights under the objections that they have made to the preliminary list. Whatever that be, it is not in consonance with a healthy management of service to unduly prolong the finalistion of the seniority list. It has to be remembered that the aspirations of an incumbent even for being considered for promotion to the higher post is legitimate though one may not have a vested right for promotion. Whatever that be, if the final seniority list

has not been published even in March, 2007, the appropriate respondent has to act immediately and finalise the issue. There is no ground to further drag on the finalisation of the seniority list. Having regard to the totality of the facts and circumstances, it is directed that the Director of Printing shall ensure that the final seniority list is published within a period of two months from the date of receipt of a copy of this judgment.

2. In so far as the management of the situation, till the aforesaid is done, is concerned, there is an interim order dated 15.3.2007 in W.P(C).3774/07 making provisional, the promotions on the basis of the provisional seniority list. Obviously, the said order is only a provisional order of this Court and it is also subject to the result of the writ petition and also subject to any reversion that could be made immediately on the basis of the final seniority list because on the publication of the final seniority list, the parties will have to be relegated to the position available on the basis of the final seniority list. This aspect is clarified even in that interim order dated 15.3.2007.

Obviously that interim order cannot be utilised to retain temporarily promoting unqualified hands because temporary promotions could be made only from among the qualified hands, unless of course, qualified hands are not available.

3. It is also pointed out that there is an interlocutory order in W.P(C).8209/07 to the effect that no unqualified person shall be promoted merely on the ground that ranks have been assigned to them in the provisional seniority list.

4. Having regard to the aforesaid, it is directed that on publication of the final seniority list, if any provisional promotions have been made on the basis of the provisional seniority list to the State Service or to any higher post, the same shall stand immediately reviewed and to be put in terms of the final seniority list. It is clarified that this is not intended to upset any lawful right of the parties. All such promotions will be reviewed immediately and all these will be subject to the right of any of the rival parties to challenge the final seniority list.

5. It is also clarified that on such process of review, qualified hands who have been promoted on the basis of the provisional list would be reviewed only if their promotion had upset the rights of other qualified senior hands in the final seniority list.

These writ petitions are disposed of with the above directions.

THOTTATHIL B.RADHAKRISHNAN
Judge

kkb.